

October 8, 2021

VIA ECF

The Honorable P. Kevin Castel
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, New York 10007

Re: In re Google Digital Advertising, 1:21-md-03010 (PKC); Requested Coordination Update from Plaintiffs

Dear Judge Castel:

During the Court's September 24, 2021 pretrial conference, the Court requested that representatives from the Plaintiff States (the "States"), publisher classes, direct-action newspaper publishers, and advertiser classes (collectively, the "Plaintiffs"¹) meet in the short term, coordinate certain action items through a Plaintiffs' Coordinating Committee, and report back to the Court.² Pursuant to the Court's Individual Practices, we note that there is no conference scheduled at this time.

This week, on Tuesday, October 5, 2021, representatives from the States, publisher classes, direct-action newspaper publishers, and advertiser classes met at the Lanier Law Firm's New York City office. As directed by the Court, the Plaintiffs are finalizing a draft protective order to propose to Google LLC ("Google") and Facebook, Inc. ("Facebook") (collectively, "Defendants"). Simultaneously, the Plaintiffs are also consolidating comments on an ESI Stipulation and an Expert Stipulation to be presented to Defendants for negotiation and submission to the Court. Further, the Plaintiffs are drafting consolidated Rule 34 requests and working through the logistics of a document repository and FTP site/location for Defendants to produce documents to a single location for dissemination to all plaintiffs/parties.

Pursuant to the Court's September 7, 2021 Order (ECF No. 61), today the States are also filing a response to Google's Pre-Motion Letter (ECF No. 136), laying out new agreed dates for the filing of the States' Third Amended Complaint and briefing on Google's anticipated Motion to Dismiss. In order to help ensure that the Third Amended Complaint is as representative and complete as possible, the Plaintiffs respectfully submit that an interim protective order limiting the States' disclosure of investigatory material and information to outside counsel attorneys' eyes only will help facilitate communication and exchange of information among all plaintiffs. As the Court has noted, the States' Second Amended Complaint covers much of the waterfront in the other underlying cases in this MDL; however, part of the information contained in the Second Amended

¹ For the purposes of this letter, the capitalized term "Plaintiffs" does not include Associated Newspapers Ltd. ("Associated Newspapers").

² The Court also directed counsel for the three advertiser class cases to confer to determine a structure so that, in instances where there are common issues to be addressed among their respective proposed classes, they can speak with "approximately one voice." 9/24/21 Hr'g Tr. at 32:22-33:5. To that end, counsel in the three advertisers classes have had discussions and believe they can comply with the Court's directive.

Complaint and the forthcoming Third Amended Complaint refers to potentially confidential material and information from Google and third parties that has been designated “confidential.” Although we are hopeful that Defendants will negotiate a protective order with all deliberate speed, the process will likely delay and hinder the States’ ability to finalize a comprehensive Third Amended Complaint in consultation with the other interested plaintiffs. In the interest of time, the Plaintiffs request that the Court issue an interim protective order permitting the States to share the unredacted Second Amended Complaint and drafts of the Third Amended Complaint with all Plaintiffs’ outside counsel, including Associated Newspapers.³

Finally, during the pretrial conference and the corresponding Minute Order (ECF No. 129), the Court set deadlines of October 1, 2021, and October 8, 2021, for a letter and responses, respectively, related to Kellogg Hansen (counsel for plaintiff Associated Newspapers) serving on the Plaintiffs’ Coordinating Committee. In light of the October 1, 2021 letter filed by John Thorne (ECF No. 138), and Kellogg Hansen’s commitment to not participate on the Plaintiffs’ Coordinating Committee, or in discussions regarding Google’s alleged agreement with Facebook, Plaintiffs believe that, subject to periodic reevaluation, appropriate measures can be taken to limit Kellogg Hansen’s participation in joint activities so as to avoid any prejudice to the Plaintiffs.

Respectfully submitted,

/s/ W. Mark Lanier

W. Mark Lanier
New York Bar No.: 4327284
Mark.Lanier@LanierLawFirm.com
Alex J. Brown
New York Bar No.: 4593604
Alex.Brown@LanierLawFirm.com
Zeke DeRose III
Zeke.DeRose@LanierLawFirm.com
Tower 56
126 East 56th Street, 6th Floor
New York, NY 10022
(212) 421-2800
THE LANIER LAW FIRM, PLLC

/s/ Ashley Keller

Ashley Keller
ack@kellerlenkner.com
Brooke Clason Smith
brooke.smith@kellerlenkner.com
Jason A. Zweig
New York Bar No.: 2960326
jaz@kellerlenkner.com
150 N. Riverside Plaza, Suite 4270
Chicago, Illinois 60606
(312) 741-5220
Zina Bash
zina.bash@kellerlenker.com
111 Congress Avenue, Suite 500
Austin, TX 78701
(512) 690-0990
KELLER LENKNER LLC

Counsel for Texas, Idaho, Louisiana (The Lanier Law Firm only), Mississippi, North Dakota, South Carolina, and South Dakota

Submitted on behalf of all Plaintiff States

³ The importance of permitting the States to share an unredacted copy of their draft Third Amended Complaint with the other plaintiffs, and obtain their input, is underscored by the Court’s decision to stay briefing on the pleadings in all cases except the States’ case. See ECF No. 129, ¶2. Further, the Court has already indicated that all documents produced to the States will be produced to plaintiffs in this MDL.

For the Advertiser Class Plaintiffs

/s/ Dena C. Sharp

Dena C. Sharp (*pro hac vice*)

Jordan Elias (*pro hac vice*)

Scott M. Grzenczyk (*pro hac vice*)

GIRARD SHARP LLP

601 California Street, Suite 1400

San Francisco, CA 94108

Tel: (415) 981-4800

Fax: (415) 981-4846

dsharp@girardsharp.com

jelias@girardsharp.com

scottg@girardsharp.com

Archana Tamoshunas (AT-3935)

TAUS, CEBULASH & LANDAU, LLP

80 Maiden Lane, Suite 1204

New York, NY 10038

Tel: (212) 931-0704

Fax: (212) 931-0703

atamoshunas@tcllaw.com

April Lambert (*pro hac vice*)

RADICE LAW FIRM, PC

475 Wall Street

Princeton, NJ 08540

Tel: (646) 245-8502

Fax: (609) 385-0745

alambert@radicelawfirm.com

Attorneys for Advertiser Plaintiffs Surefreight

Global LLC d/b/a Prana Pets and Hanson

Law Office, as successor-in-interest to

Hanson Law Firm, PC

/s/ Tina Wolfson

Tina Wolfson (TW-1016)
Theodore W. Maya (*pro hac vice* forthcoming)
Bradley K. King (BK-1971)
Rachel R. Johnson (*pro hac vice* forthcoming)
AHDOOT & WOLFSON, PC
2600 West Olive Avenue, Suite 500
Burbank, CA 91505
Tel.: (310) 474-9111
Fax: (310) 474-8585
twolfson@ahdootwolfson.com
tmaya@ahdootwolfson.com
bking@ahdootwolfson.com
rjohnson@ahdootwolfson.com

Attorneys for Advertiser Plaintiff Vitor Lindo

By: /s/ Fred T. Isquith Sr.
Fred T. Isquith Sr.

Fred T. Isquith, Sr. (FI-6782)
Robert S. Schachter (RS-7243)
**ZWERLING, SCHACHTER
& ZWERLING, LLP**
41 Madison Avenue, 32nd Floor
New York, NY 10010
Tel: (212) 223-3900
Fax: (212) 371-5969
Email: ftisquith@zsz.com
Email: rschachter@zsz.com
Email: sshah@zsz.com

By: /s/ Fred T. Isquith Jr.
Fred T. Isquith Sr.

Fred T. Isquith, Jr. (FI-1064)
ISQUITH LAW
220 East 80th Street
New York, NY 10075
Tel: (607) 277-6513
Email: isquithlaw@gmail.com

By: /s/ Pamela A. Markert
Pamela A. Markert

Solomon B. Cera (admitted *pro hac vice*)
Pamela A. Markert (admitted *pro hac vice*)

CERA LLP

595 Market St., Suite 1350
San Francisco, CA 94105
Telephone: (415) 777-2230
Fax: (415) 777-5189
Email: scera@cerallp.com
Email: pmarkert@cerallp.com

By: /s/ Kate M. Baxter-Kauf
Kate. M. Baxter-Kauf

Heidi Silton (admitted *pro hac vice*)
Kate M. Baxter-Kauf (admitted *pro hac vice*)
LOCKRIDGE GRINDAL NAUEN P.L.L.P.
100 Washington Avenue S., Suite 2200
Minneapolis, MN 55401-2159
Tel: (612) 596-4092
Email: hmsilton@locklaw.com
Email: kmbaxter-kauf@locklaw.com

By: /s/ Richard Vita

Richard Vita (*pro hac vice* forthcoming)
VITA LAW OFFICES, P.C.
100 State Street, Suite 900
Boston, MA 02109
Tel: (617) 426-6566
Email: rjv@vitalaw.com

*Attorneys for Plaintiffs SPX Total Body Fitness
LLC, d/b/a The Studio Empower, SkinnySchool LLC
d/b/a/ Maria Marques Fitness, and Mint Rose Day
Spa LLC, on Behalf of Themselves and All Others
Similarly Situated*

/s/ Jonathan Rubin

Jonathan L. Rubin (*Pro Hac Vice*)

MOGINRUBIN LLP

1615 M Street, NW, Third Floor

Washington, D.C. 20036

(202) 630-0616

jrubin@moginrubin.com

Daniel J. Mogin (*Pro Hac Vice*)

Jennifer M. Oliver (N.Y. Bar No. 4547428)

Timothy Z. LaComb (*Pro Hac Vice*)

MOGINRUBIN LLP

600 West Broadway, Suite 3300

San Diego, CA 92101

(619) 687-6611

dmogin@moginrubin.com

joliver@moginrubin.com

tlacomb@moginrubin.com

*Counsel for Plaintiffs, Cliffy Care, Kinin,
Rodrock, and Raintree*

Richard F. Lombardo (*Pro Hac Vice
Forthcoming*)

Peter F. Rottgers (*Pro Hac Vice Forthcoming*)

SHAFFER LOMBARDO SHURIN

2001 Wyandotte Street

Kansas City, MO 64108

(816) 931-0500

rlombardo@sls-law.com

prottgers@sls-law.com

*Counsel for Plaintiffs, Cliffy Care, Rodrock,
and Raintree*

Jason S. Hartley (*Pro Hac Vice Forthcoming*)

Jason M. Lindner (*Pro Hac Vice Forthcoming*)

HARTLEY LLP

101 W. Broadway, Ste 820

San Diego, CA 92101

(619) 400-5822

hartley@hartleyllp.com

lindner@hartleyllp.com

Counsel for Plaintiff, Kinin

For the Publisher Class Plaintiffs

By: /s/ Philip C. Korologos
BOIES SCHILLER FLEXNER LLP
Philip C. Korologos*
pkorologos@bsfllp.com
Brianna S. Hills*
bhills@bsfllp.com
BOIES SCHILLER FLEXNER LLP
55 Hudson Yards, 20th Floor
New York, NY 10001
Tel.: (212) 446-2300 / Fax: (212) 446-2350

David Boies*
dboies@bsfllp.com
BOIES SCHILLER FLEXNER LLP
333 Main Street
Armonk, NY 10504
Tel.: (914) 749-8200 / Fax: (914) 749-8300

Abby L. Dennis*
adennis@bsfllp.com
Jesse Panuccio*
jpanuccio@bsfllp.com
BOIES SCHILLER FLEXNER LLP
1401 New York Avenue, NW
Washington, DC 20005
Tel.: (202) 895-7580 / Fax: (202) 237-6131

Mark C. Mao (236165)
mmao@bsfllp.com
Sean P. Rodriguez (262437)
srodriguez@bsfllp.com
BOIES SCHILLER FLEXNER LLP
44 Montgomery Street, 41st Floor
San Francisco, CA 94104
Tel.: (415) 293-6820 / Fax: (415) 293-6899

Sabria A. McElroy*
smcelroy@bsfllp.com
BOIES SCHILLER FLEXNER LLP
401 E. Las Olas Blvd., Suite 1200
Fort Lauderdale, FL 33301
Tel.: (954) 377 4216 / Fax: (954) 356-0022

By: /s/ George A. Zelcs
KOREIN TILLERY LLC
George A. Zelcs*
gzelcs@koreintillery.com
Robert E. Litan*
rlitan@koreintillery.com
Randall P. Ewing*
rewing@koreintillery.com
Marc A. Wallenstein*
mwallenstein@koreintillery.com
Jonathon D. Byrer*
jbyrer@koreintillery.com
Ryan A. Cortazar*
rcortazar@koreintillery.com
KOREIN TILLERY LLC
205 North Michigan Avenue, Suite 1950
Chicago, IL 60601
Tel.: (312) 641-9750 / Fax: (312) 641-9751

Stephen M. Tillery*
stillery@koreintillery.com
Michael E. Klenov (277028)
mklenov@koreintillery.com
Carol L. O'Keefe*
cokeefe@koreintillery.com
KOREIN TILLERY LLC
505 North 7th Street, Suite 3600
St. Louis, MO 63101
Tel.: (314) 241-4844 / Fax: (314) 241-3525

*Counsel for Publisher Plaintiffs Genius Media
Group, Inc., The Nation Company, L.P., and The
Progressive, Inc.*

By: /s/ Eric L. Cramer
BERGER MONTAGUE PC
Eric L. Cramer*
ecramer@bm.net
Michael C. Dell'Angelo*
mdellangelo@bm.net
Caitlin G. Coslett*
ccoslett@bm.net
Patrick F. Madden*
pmadden@bm.net
BERGER MONTAGUE PC
1818 Market St., Suite 3600
Philadelphia, PA 19103
Tel.: (215) 875-3000 / Fax: (215) 875-4604

Sophia M. Rios (305801)
srios@bm.net
BERGER MONTAGUE PC
401 B Street, Suite 2000
San Diego, CA 92101
Tel.: (619) 489-0300 / Fax: (215) 875-4604

Daniel J. Walker*
dwalker@bm.net
BERGER MONTAGUE PC
2001 Pennsylvania Ave., NW
Suite 300
Washington DC 20006
Tel.: (202) 559-9745

Michael K. Yarnoff**
myarnoff@kehoelawfirm.com
KEHOE LAW FIRM, P.C.
Two Penn Center Plaza
1500 JFK Blvd., Suite 1020
Philadelphia, PA 19102
Telephone: (215) 792-6676

*Counsel for Publisher Plaintiff Sterling
International Consulting Group*

By: /s/ David W. Mitchell
ROBBINS GELLER RUDMAN
& DOWD LLP
DAVID W. MITCHELL
davidm@rgrdlaw.com
STEVEN M. JODLOWSKI
sjodlowski@rgrdlaw.com
655 West Broadway, Suite 1900
San Diego, CA 92101-8498
Tel.: (619) 231-1058 / Fax: (619) 231-7423

PAUL J. GELLER*
STUART A. DAVIDSON*
ROBBINS GELLER RUDMAN & DOWD LLP
120 East Palmetto Park Road, Suite 500
Boca Raton, FL 33432
Tel.: (561) 750-3000 / Fax: (561) 750-3364

John C. Herman*
(GA Bar No. 348370)
jherman@hermanjones.com
Serina M. Vash**
(NJ Bar No. 041142009)
svash@hermanjones.com
HERMAN JONES LLP
3424 Peachtree Road, N.E., Suite 1650
Atlanta, Georgia 30326
Tel.: (404) 504-6500 / Fax: (404) 504-6501

*Counsel for Publisher Plaintiff Sweepstakes Today,
LLC*

By: /s/ Robert J. Gralewski, Jr
KIRBY McINERNEY LLP
Robert J. Gralewski, Jr. (196410)
bgralewski@kmlp.com
Samantha L. Greenberg (327224)
sgreenberg@kmlp.com
KIRBY McINERNEY LLP
600 B Street, Suite 2110
San Diego, CA 92101
Telephone: (619) 784-1442

Karen Lerner**
klerner@kmlp.com
Daniel Hume**
dhume@kmlp.com
David Bishop**
dbishop@kmlp.com
Andrew McNeela**
amcneela@kmlp.com
KIRBY McINERNEY LLP
250 Park Avenue, Suite 820
New York, New York 10177
Telephone: (212) 371-6600
Facsimile: (212) 751-2540

HINKLE SHANOR LLP
Thomas M. Hnasko**
Michael E. Jacobs**
218 Montezuma Avenue
Sante Fe, NM 87501
Telephone: (505) 982-4554
thnasko@hinklelawfirm.com
mjacobs@hinklelawfirm.com

WILLIAMS LAW FIRM
Kent Williams**
1632 Homestead Trail
Long Lake, MN 55356
Tel.: (612) 940-4452 / Fax: (952) 283-1525
williamslawmn@gmail.com

*Counsel for Publisher Plaintiff JLaSalle Enterprises
LLC*

By: /s/ Dennis Stewart

GUSTAFSON GLUEK PLLC
Dennis Stewart (99152)
dstewart@gustafsongluek.com
600 B Street, 17th Floor
San Diego, CA 92101
Telephone: (619) 595-3299
Daniel E. Gustafson*
dgustafson@gustafsongluek.com
Daniel C. Hedlund*
dhedlund@gustafsongluek.com
Daniel J. Nordin*
dnordin@gustafsongluek.com
Ling S. Wang*
lwang@gustafsongluek.com

GUSTAFSON GLUEK PLLC
Canadian Pacific Plaza
120 South Sixth Street, Suite 2600
Minneapolis, MN 55402
Telephone: (612) 333-8844

Marc H. Edelson, Esq*
medelson@edelson-law.com
EDELSON LECHTZIN LLP
3 Terry Drive, Suite 205
Newtown, PA 18940
Tel.: (215) 867-2399 / Fax: (267) 685-0676

Joshua H. Grabar*
jgrabar@grabarlaw.com
GRABAR LAW OFFICE
One Liberty Place
1650 Market Street, Suite 3600
Philadelphia, PA 19103
Tel: (267) 507-6085 / Fax: (267) 507-6048

E. Powell Miller*
epm@millerlawpc.com
Sharon S. Almonrode*
ssa@millerlawpc.com
Emily E. Hughes*
eeh@millerlawpc.com
THE MILLER LAW FIRM, P.C.
950 West University Drive, Suite 300
Rochester, MI 48307
Tel.: (248) 841-2200 / Fax: (248) 652-2852

Simon Bahne Paris, Esquire*
sparis@smbb.com
Patrick Howard, Esquire*
phoward@smbb.com
SALTZ, MONGELUZZI & BENDESKY, P.C.
One Liberty Place, 52nd Floor
1650 Market Street
Philadelphia, PA 19103
Tel.: (215) 496-8282 / Fax: (215) 496-0999

Kenneth A. Wexler*
kaw@wexlerwallace.com
Kara A. Elgersma*
kae@wexlerwallace.com
WEXLER WALLACE LLP
55 West Monroe Street, Suite 3300
Chicago, IL 60603

Dianne M. Nast*
dnast@nastlaw.com
Daniel N. Gallucci*
dgallucci@nastlaw.com
Joseph N. Roda*
jnroda@nastlaw.com
NASTLAWLLC
1101 Market Street, Suite 2801
Philadelphia, PA 19106

*Counsel for Publisher Plaintiff Mikula Web
Solutions, Inc.*

For the *Direct Newspaper Publishers*

/s/ Serina M. Vash

Serina M. Vash
New York Bar No.: 2773448
svash@hermanjones.com
153 Central Avenue, # 131
Westfield, NJ 07090
(404) 504-6516
John C. Herman
jherman@hermanjones.com
3424 Peachtree Road, N.E., Suite 1650
Atlanta, GA 30326
(404) 504-6500
HERMAN JONES LLP

Paul J. Geller
pgeller@rgrdlaw.com
Stuart A. Davidson
sdavidson@rgrdlaw.com
Alexander C. Cohen
Maxwell H. Sawyer
120 East Palmetto Park Road, Suite 500
Boca Raton, FL 33432
(561) 750-3000
ROBBINS GELLER RUDMAN & DOWD LLP

David W. Mitchell
davidm@rgrdlaw.com
Steven M. Jodlowski
sjodlowski@rgrdlaw.com
655 West Broadway, Suite 1900
San Diego, CA 92101
(619) 231-1058
ROBBINS GELLER RUDMAN & DOWD LLP

Paul T. Farrell, Jr.
paul@farrellfuller.com
Michael J. Fuller, Jr.
mike@farrellfuller.com
1311 Ponce De Leon, Suite 202
San Juan, PR 00907
(939) 293-8244
FARRELL & FULLER, LLC

Robert P. Fitzsimmons
bob@fitzsimmonsfirm.com
Clayton J. Fitzsimmons
clayton@fitzsimmonsfirm.com
Mark A. Colantonio
mark@fitzsimmonsfirm.com
1609 Warwood Avenue
Wheeling, WV 26003
(304) 277-1700
FITZSIMMONS LAW FIRM PLLC

Co-Counsel for the Newspaper Plaintiffs